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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)	NO: 1:15-CR-2068-LRS-3
)	
Plaintiff,)	
)	Plea Agreement
vs.)	
)	
ISRAEL GARCIA,)	
)	
Defendant.)	
)	

Plaintiff United States of America, by and through Michael C. Ormsby,
United States Attorney, and Thomas J. Hanlon, Assistant United States Attorney,
for the Eastern District of Washington, and the Defendant, Israel Garcia, and the
Defendant's counsel, Michael W. Lynch, agree to the following Plea Agreement
pursuant to Fed. R. Crim. P. 11(c)(1)(C):

1 **1. Guilty Plea and Maximum Statutory Penalties:**

2 The Defendant agrees to enter a plea of guilty to Count 5 of the Superseding
3
4 Indictment filed on December 8, 2015, charging the Defendant with Assault on
5 Federal Officers, in violation of 18 U.S.C. §111(a)(1) & (b).

6 The Defendant understands that the maximum penalty for Assault on
7
8 Federal Officers, in violation of 18 U.S.C. §111(a)(1) & (b) is: a twenty (20) year
9 term of imprisonment; a fine not to exceed \$250,000; a three (3)-year term of
10 supervised release; and a \$100 special penalty assessment.

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12 **2. Fed. R. Crim. P. 11(c)(1)(C) Plea:**

13 The Defendant understands that this is a Plea Agreement pursuant to Fed. R.
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15 Crim. P. 11(c)(1)(C) and that the United States may withdraw from this Plea
16 Agreement if the Court imposes a sentenced lesser than agreed upon. The
17 Defendant further understands that the Defendant will have the option to withdraw
18 from this Plea Agreement if the Court imposes a sentence harsher than agreed
19 upon.
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21 Here, the parties have agreed to recommend that the Court impose a
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23 sentence of 84 months imprisonment; a 3 year term of supervised release; and a
24 \$100 special penalty assessment.
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1 **3. Effect on Immigration Status:**

2 The Defendant recognizes that pleading guilty may have consequences with
3
4 respect to his immigration status if he is not a citizen of the United States. Under
5 federal law, a broad range of crimes are removable offenses, including the offense
6 to which the Defendant is pleading guilty. Indeed, because the Defendant is
7
8 pleading guilty to Assault on Federal Officers, removal is presumptively
9
10 mandatory. Removal and other immigration consequences are the subject of a
11
12 separate proceeding, however, and the Defendant understands that while
13
14 deportation and/or removal appears to be a virtual certainty, no one, including his
15
16 attorney or the district court, can predict with absolute certainty the effect of his
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18 conviction on his immigration status. The Defendant nevertheless affirms that he
19
20 wants to plead guilty regardless of any immigration consequences that his plea
21
22 may entail, even if automatic removal from the United States is a virtual certainty.

19 **4. Waiver of Constitutional Rights:**

20 The Defendant understands that by entering this plea of guilty the Defendant
21
22 is knowingly and voluntarily waiving certain constitutional rights, including:

- 23 (a) The right to a jury trial;
24
25 (b) The right to see, hear and question the witnesses;
26
27 (c) The right to remain silent at trial;
28 (d) The right to testify at trial; and

1 (e) The right to compel witnesses to testify.

2 While the Defendant is waiving certain constitutional rights, the Defendant
3 understands that he retains the right to be assisted through the sentencing and any
4 direct appeal of the conviction and sentence by an attorney, who will be appointed
5 at no cost if the Defendant cannot afford to hire an attorney. The Defendant also
6 acknowledges that any pretrial motions currently pending before the Court are
7 waived.
8

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10 **4. Elements of the Offense:**
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12 The United States and the Defendant agree that in order to convict the
13 Defendant of Assault on Federal Officers, in violation of 18 U.S.C. § 111(a)(1) &
14 (b), the United States would have to prove beyond a reasonable doubt the
15 following elements:
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17 First, the defendant forcibly assaulted Agent # 1, Agent #2, and Agent #3;
18

19 Second, the defendant did so while Agent #1, Agent #2, and Agent #3 were
20 engaged in, or on account of their official duties;
21

22 Third, the defendant used a firearm.

23 There is forcible assault when one person intentionally threatens another
24 coupled with the apparent ability to inflict injury on another which causes a
25 reasonable apprehension of immediate bodily harm.
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1 A firearm is a deadly or dangerous weapon if it is used in a way that is
2 capable of causing death or serious bodily injury.

3
4 *9th Cir. Model Jury Instr. 8.4 (modified)(2015).*

5 **5. Factual Basis and Statement of Facts:**

6 The United States and the Defendant stipulate and agree that the following
7 facts are accurate; that the United States could prove these facts beyond a
8 reasonable doubt at trial; and that these facts constitute an adequate factual basis
9 for Defendant's guilty plea. This statement of facts does not preclude either party
10 from presenting and arguing, for sentencing purposes, additional facts which are
11 relevant to the guideline computation or sentencing, unless otherwise prohibited in
12 this agreement.
13
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16 On October 16, 2015, law enforcement officers arrived at the Defendant's
17 residence to execute a federal search warrant. The Defendant resided in an
18 apartment located in Yakima, Washington. The law enforcement officers knocked
19 on the door, announced that they were law enforcement officers, and advised that
20 they possessed a search warrant for the premises. The Defendant did not answer
21 the door. The officers opened the front door and attempted to enter the residence.
22 As they entered, the officers heard the sound of a firearm being locked and loaded.
23 The officers withdrew from the residence. The Federal Bureau of Investigation
24 ("FBI") SWAT team arrived to assist. The FBI SWAT team consisted of special
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agents who were engaged in the performance of their official duties. Each member of the FBI SWAT team wore clothing which indicated they were federal law enforcement officers. Agent #1, Agent #2, and Agent #3 of the FBI SWAT team were aware that the Defendant was in possession of a firearm. During this time, the agents heard the Defendant state that he was going to "start shooting." Due to the Defendant's words and actions, the three agents had reasonable apprehension of immediate bodily harm. Throughout the next three hours, the Defendant continued to make verbal threats that he was going to shoot. Eventually, the Defendant disposed of the firearm and attempted to flee from the residence. The Defendant was apprehended a short distance from the residence.

The law enforcement officers entered the Defendant's residence. A Zastava, Model M92PV, 7.62 x 39 caliber pistol, bearing serial number M92PV006483 was found in the residence.

6. Waiver of Inadmissibility of Statements:

The Defendant agrees to waive the inadmissibility of statements made in the course of plea discussions with the United States, pursuant to Fed.R.Crim.P. 11(f). This waiver shall apply if the Defendant withdraws this guilty plea or breaches this Plea Agreement. The Defendant acknowledges that any statements made by the Defendant to law enforcement agents in the course of plea discussions in this case

1 would be admissible against the Defendant in the Government's case-in-chief if the
2 Defendant were to withdraw or breach this Plea Agreement.

3
4 **7. The United States Agrees:**

5 (a.) Not to File Additional Charges:

6 The United States Attorney's Office for the Eastern District of Washington
7 agrees not to bring any additional charges against the Defendant based upon
8 information in its possession at the time of this Plea Agreement and arising out of
9 Defendant's conduct involving illegal activity charged in the Indictment, unless the
10 Defendant breaches this Plea Agreement any time before or after sentencing.
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13 (b.) Dismissal:

14 At sentencing, the United States agrees to dismiss Count 3 of the
15 Superseding Indictment which charges Felon in Possession of Firearms; and Count
16 7, which charges Carrying of a Firearm During and in Relation to a Crime of
17 Violence.
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20 **8. United States Sentencing Guideline Calculations:**

21 (a.) Base Offense Level:

22 The United States and the Defendant have no agreement as to the base
23 offense level.
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1 (b.) Specific Offense Characteristics:

2 The United States and the Defendant have no agreement as to the
3 applicability of any specific offense characteristics.
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5 (c.) Acceptance of Responsibility:

6 If Defendant pleads guilty and demonstrates a recognition and an affirmative
7 acceptance of personal responsibility for the criminal conduct; provides complete
8 and accurate information during the sentencing process; does not commit any
9 obstructive conduct; and enters a plea of guilty as soon thereafter as it may be
10 placed on the court's docket, the United States will recommend that Defendant
11 receive a two (2) level reduction for acceptance of responsibility, and if
12 Defendant's adjusted offense level is sixteen (16), or greater, the United States will
13 move for a one (1)-level reduction for timeliness. See U.S.S.G. § 3E1.1(a) and (b).
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18 The Defendant and the United States agree that the United States may at its
19 option and upon written notice to the Defendant, not recommend a three (3) level
20 downward reduction for acceptance of responsibility if, prior to the imposition of
21 sentence, the Defendant is charged or convicted of any criminal offense
22 whatsoever or if the Defendant tests positive for any controlled substance.
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1 (d.) Criminal History:

2 The United States and the Defendant understand that the Defendant's
3 criminal history computation ultimately will be determined by the Court after
4 review of the Presentence Investigative Report.
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6 **9. Incarceration:**

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8 The United States and the Defendant agree to recommend a sentence of 84
9 months imprisonment.
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11 **10. Criminal Fine:**

12 The United States and the Defendant are free to make whatever
13 recommendation concerning the imposition of a criminal fine that they believe is
14 appropriate.
15

16 **11. Supervised Release:**

17 The United States and the Defendant agree to recommend that the Court
18 impose a three year term of supervised release, and to include special conditions as
19 recommended by United States probation, in addition to the standard conditions of
20 supervised release.
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23 **12. Mandatory Special Penalty Assessment:**

24 The Defendant agrees to pay the \$100 mandatory special penalty assessment
25 to the Clerk of Court for the Eastern District of Washington, at or before
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1 sentencing, pursuant to 18 U.S.C. § 3013 and shall provide a receipt from the Clerk
2 to the United States before sentencing as proof of this payment.

3
4 If the Defendant lacks the financial resources to pay the monetary
5 obligations imposed by the Court, the Defendant agrees to earn the money to pay
6 toward these obligations by participating in the Bureau of Prisons' Inmate
7 Financial Responsibility Program.

9 **13. Additional Violations of Law Can Void Plea Agreement:**

10 The Defendant and the United States agree that the United States may at its
11 option and upon written notice to the Defendant, withdraw from this Plea
12 Agreement or modify its recommendation for sentence if, prior to the imposition of
13 sentence, the Defendant is charged or convicted of any criminal offense
14 whatsoever or if the Defendant tests positive for any controlled substance.
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17 **14. Appeal Rights:**

18 The Defendant waives any right to appeal this conviction and the sentence
19 imposed by the Court. The Defendant also waives any right to collaterally attack
20 this conviction and sentence under 28 U.S.C. § 2255, or any other collateral attack
21 (except for ineffective assistance of counsel based on facts discovered after the
22 plea and sentencing). The Defendant acknowledges that this waiver shall result in
23 the dismissal of any appeal or collateral attack the defendant might file challenging
24 the conviction or sentence in this case, except for ineffective assistance of counsel
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1 as noted above. If the Defendant files a notice of appeal, a habeas petition, or other
2 collateral attack, notwithstanding this agreement, the Defendant agrees that this
3 case shall, upon motion of the government, be remanded to the district court to
4 determine whether Defendant is in breach of this agreement and, if so, to permit
5 the government to withdraw from the Plea Agreement.
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8 **15. Integration Clause:**

9 The United States and the Defendant acknowledge that this document
10 constitutes the entire Plea Agreement between the United States and the
11 Defendant, and no other promises, agreements, or conditions exist between the
12 United States and the Defendant concerning the resolution of the case. This Plea
13 Agreement is binding only upon the United States Attorney's Office for the
14 Eastern District of Washington, and cannot bind other federal, state or local
15 authorities. The United States and the Defendant agree that this agreement cannot
16 be modified except in a writing that is signed by the United States and the
17 Defendant.
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Approvals and Signatures

Agreed and submitted on behalf of the United States Attorney's Office for
the Eastern District of Washington.

Michael C. Ormsby
United States Attorney



THOMAS J. HANLON
Assistant United States Attorney

4/27/16

Date

I have read this Plea Agreement and have carefully reviewed and discussed
every part of the agreement with my attorney. I understand and voluntarily enter
into this Plea Agreement. Furthermore, I have consulted with my attorney about
my rights, I understand those rights, and I am satisfied with the representation of
my attorney in this case. My attorney has advised me that by pleading guilty to the
charge relevant to this Plea Agreement, as of this date, deportation appears to be a
virtual certainty. No other promises or inducements have been made to me, other
than those contained in this Plea Agreement, and no one has threatened or forced
me in any way to enter into this Plea Agreement. I am agreeing to plead guilty
because I am guilty.

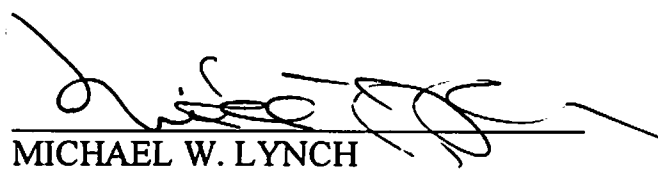


ISRAEL GARCIA
Defendant

4/25/16

Date

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2 I have read the Plea Agreement and have discussed the contents of the
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4 agreement with my client. The Plea Agreement accurately and completely sets
5
6 forth the entirety of the agreement between the parties. I concur in my client's
7
8 decision to plead guilty as set forth in the Plea Agreement. There is no legal reason
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10 why the Court should not accept the Defendant's plea of guilty.
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MICHAEL W. LYNCH
13 Attorney for the Defendant
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4.25.16
Date